

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Replacement of Part 90 by Part 88 to Revise
the Private Land Mobile Radio Services and
Modify the Policies Governing Them

and

Examination of Exclusivity and
Frequency Assignment Policies of the
Private Land Mobile Radio Services

PR Docket No. 92-235

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**REPLY COMMENTS OF MOTOROLA ON THE
FURTHER NOTICE OF PROPOSED RULE MAKING**

Motorola takes this opportunity to reply to comments¹ filed in response to the FCC's *Further Notice of Proposed Rule Making* in the above captioned proceeding.² Motorola believes that the private land mobile radio industry, users and manufacturers alike, have presented the Commission with a workable consensus plan that will encourage more efficient use of the spectrum in the least disruptive fashion. Thus, the Commission should expeditiously implement the transition plan submitted by the Land Mobile Communications Council (LMCC). This action will serve the public interest by enhancing efficient spectrum use while removing the uncertainty that has clouded this industry for the past five years.

Throughout this long and difficult proceeding, Motorola has endeavored to assist the Commission in finding the proper incentives to encourage private land mobile users to migrate to more spectrum efficient technologies. Since the beginning, finding the appropriate solution has been complicated by the huge imbedded investment in 25 kHz

¹ Reply comments were originally due on January 5, 1996. These comments are being filed on January 16 due to the closing of the Federal Government.

² *Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076 (1995), *hereinafter Further Notice*.

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technologies that populate the “refarming” bands.³ With more than 12 million radios potentially affected, regulatory goals must be balanced with marketplace realities.

Reflecting this concern, the FCC has embarked upon a two-pronged approach for refarming. The first prong focuses upon the availability of new spectrum efficient technologies and, as adopted in the *Report and Order* of this proceeding⁴, requires manufacturers of private land mobile equipment to meet certain efficiency standards by established benchmarks. As of August 1, 1996, the FCC will require that new radios submitted for grants of type acceptance must operate within 12.5 kHz channels. As of January 1, 2005, such new radio designs will be required to operate within 6.25 kHz channels.⁵ These policies will ensure that future private land mobile radios will use less spectrum than existing technology.

The second prong of the FCC’s approach is to ensure that sufficient incentives exist to encourage existing users to convert to the more efficient radios and thereby discourage inefficient spectrum use. In its *Further Notice*, the FCC has proposed a variety of ways that seek to achieve those objectives such as exclusive use overlays with unlimited resale of excess capacity, spectrum auctions and user fees. In response to these proposals, Motorola filed comments expressing concern that the Commission’s proposals may threaten the continued viability of private radio in favor of commercial mobile operations. Motorola indicated its belief that the proposed marketplace based incentives, particularly auctions and for-profit resale, will necessarily transform these bands into homes for common carrier operations. While stating that traditional market and business incentives will spur most

³ Refarming is focusing upon the private land mobile bands extending from 150-172 MHz, 421-430 MHz, 450-470 MHz and 470-512 MHz. The 421-430 MHz and 470-512 MHz bands are available in limited markets only.

⁴ See note 1, *supra*.

⁵ The FCC has also adopted rules that will allow the approval of wider bandwidth technologies provided that they operate with equivalent levels of efficiency. See 47 C.F.R. §90.203(j).

users to migrate to new technologies, Motorola did urge the Commission to adopt a date certain whereby existing users in frequency congested areas would be required to replace their existing radios with 12.5 kHz systems or face reclassification as secondary users. In Motorola's view, this approach will foster efficient spectrum use with a minimum of disruption and confusion.

Many commenting parties provided the FCC with similar views. Users of private land mobile radio and their trade associations vehemently opposed the Commission's proposed market incentives because they fear losing control of these frequency bands to commercial operations. Many discuss how common carriers are unable to provide the requisite levels of reliability for their specialized communications needs.⁶ In order to preserve the fundamental nature of the refarming bands for internal use systems, these commenters specifically oppose the adoption of channel exclusivity for purposes of promoting for-profit resale of excess capacity as well as any spectrum auctions where non-commercial radio users must compete for spectrum with commercial service providers.⁷

Motorola supports these positions and urges the FCC to adopt policies that simplifies the industry's transition to narrowband technologies and retains the fundamental nature of the the allocations.⁸ As the Commission is well aware, the transition to digital technologies is providing a variety of choices for consumers, and a myriad of compatibility issues for the frequency coordinators. The industry can ill-afford regulatory uncertainty at

⁶ See, e.g., Comments of American Petroleum Institute at 14, Comments of the Association of American Railroads at 6, Comments of UTC at 19, Comments of Weyerhaeuser Company at 5.

⁷ See, e.g., Comments of Alarm Industry Communications Committee, Comments of AAA, Comments of American Petroleum Institute, Comments of American Public Transit Association, Comments of the Association of American Railroads, Comments of Boeing Corporation, Comments of International Taxicab and Livery Association, Comments of Land Mobile Communications Council, Comments of MRFAC, Comments of Union Pacific Railroad and Missouri Pacific Railroad Company, Comments of the United and Central Telephone Companies.

⁸ Motorola also urges the FCC to resolve in a timely fashion those few technical issues remaining as a result of the various petitions for reconsiderations of the *Report and Order*.

the same time it is learning to accommodate differing modulation formats. To this end, the Land Mobile Communications Council has provided the FCC with a detailed plan to regulate the transition that adequately protects the rights of incumbents in a fair manner while ensuring that new participants will gain access to useful radio channels. Adoption of the LMCC's proposals will assist the industry in managing these complicated issues and, by delegating a significant portion of the process to the frequency coordinators, will reduce FCC oversight burdens.


The record does not support adoption of the exclusive overlay proposal as well as any spectrum auction proposal for the refarming band.⁹ Private land mobile radio users are generally unwilling or unable to convert their own internal use systems into carrier-like operations and, for the most part, have little or no excess capacity to resell in any event. In Motorola's view, shared use of this spectrum on a coordinated basis has served this nation well by accommodating a multiplicity of public safety and industrial applications. And, with more than 12 million operating radios in these bands, the private land mobile spectrum is the most intensive and efficient bands of any regulated by the Commission. This type of use should continue undisrupted.

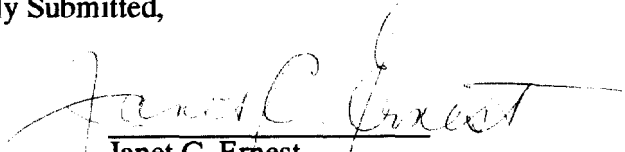
Should the Commission continue to believe that some means of additional encouragement continues to be necessary to compel users to operate in a more efficient manner, Motorola strongly suggests that the FCC simply establish a date certain whereby existing users must convert from 25 kHz equipment to 12.5 kHz or be reclassified as secondary. Such a move would ensure that the benefits of refarming are more than illusory. A mandated conversion to 12.5 kHz equipment would be an event that users could plan for and retain backward compatibility with existing infrastructure.

⁹ In its comments, Motorola stated that reasonable user fees do not share the negative characteristic of the Commission's other proposals as ultimately favoring carrier operations over private radio use of the spectrum. Motorola continues to believe that to be the case but again notes that the FCC lacks statutory authority to impose fees as a spectrum management tool. Should the Commission gain such authority, Motorola intends to work closely with

In conclusion, refarming of the private land mobile bands is an ambitious project that will require inordinate levels of cooperation and work from all sides of the industry. The Commission has laid a solid foundation in developing a band plan containing sufficient flexibility to allow a wide range of products to be offered to users. Clarifying the regulatory framework by implementing the plan proposed by the LMCC will pave the way for users to begin purchasing these new technologies and thus allow the U.S. to realize the long overdue benefits of refarming.

Respectfully Submitted,


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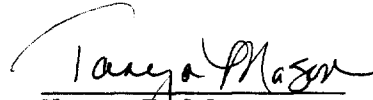
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the user community and the FCC to ensure that any fees imposed are constructed in a fair manner that does not deter the operation of private radio systems.

CERTIFICATE OF SERVICE

I, Tanya R. Mason, of Motorola Inc. do hereby certify that on this 16th day of January, 1996 a copy of the foregoing "Comments" was sent to each of the following by hand:


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